IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6773 OF 2005

Suresh Rama Kanchan ..Petitioner.

Versus

The State of Maharashtra & Anr. ..Respondents.

Mrs. Veena B. Thadani for the Petitioner.
Mr. A.H. Palekar, AGP for the Respondents.

CORAM : S. A. BOBDE, J.
DATED : 06TH OCTOBER, 2005.

P.C.:

1. Rule returnable forthwith. Mr. Palekar, AGP for the Respondents appears and waives service of rule. Heard by consent.

2. The petitioner has challenged the order dated 15.09.2005 passed by the Assistant Commissioner of Police Mumbai, calling upon him to submit both, the premises and the performance licence granted to him on 03rd November, 1999 for changing the endorsement thereon. The petitioner held the licence Form 'D', authorising him to keep the place of public amusement known as Indian Classical Dance and Orchestra. By Act No. 35 of 2005 the Bombay Police Act of 1951 was amended to add section 33(a), which bar the holding of a performance of dance of any kind or type. In view

of this amendment, the petitioner applied to the Police for performance of an Orchestra only. Admittedly, entertainment by means of an orchestra is not prohibited under the Bombay Police Act and is permitted in accordance with a licence. The Assistant Commissioner of Police, therefore, directed the petitioner to submit both the premises and the performance licence granted to the petitioner establishment for correcting endorsement to enable the petitioner to have an orchestra performed in the premises. I see no illegality in the impugned order. If the petitioner wants a correction in accordance with law, indeed the original application must be submitted by the petitioner to the licensing authority, since that is the document on which correction is sought.

3. Ms. Thadani, the learned counsel for the petitioner stated that the petitioner have challenged Act No.35/2005 and this court has granted a rule vide order dated 17th August, 2005. The petitioner therefore, apprehends that the respondent may not re-grant the licence, allowing the petitioner to hold dance performance in its establishment, even if the petition is allowed. This apprehension is baseless since the petitioner would be indeed entitled to apply

for restoration or a fresh grant of the said license, as may be advised or ordered by this court, depending on the outcome of the pending petition.

4. Rule is disposed of in the above terms.

DT.06.10.05 (S.A.BOBDE,J)

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